

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION THIS DOCUMENT RELATES TO: WAVE 1 CASES LISTED ON EXHIBIT A	Master File No. 2:12-MD-02327 MDL No. 2327 JOSEPH R. GOODWIN U.S. DISTRICT JUDGE
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**PLAINTIFFS' MOTION TO EXCLUDE CERTAIN OPINIONS AND TESTIMONY OF
BRIAN N. SCHWARTZ, M.D.**

Plaintiffs, pursuant to Fed. R. Evid. 702 and *Daubert*,¹ move the Court to exclude certain opinions that Brian N. Schwartz, M.D., an expert for Defendants, has set forth in his general expert reports and testified about in his depositions. In support of this motion, Plaintiffs state as follows:

1. Defendants have identified Brian N. Schwartz, M.D., as an expert witness in each of the cases listed in Exhibit A to this motion.
2. Defendants have produced two general reports by Dr. Schwartz, one for Ethicon's TVT-O device and one for the TVT-Secur device.
3. Dr. Schwartz's general reports express opinions that exceed the scope of his expertise. Dr. Schwartz opines on the design of mesh (pore size, mesh density, mechanically-cut v. laser-cut mesh); degradation; shrinkage or contracture; the respective Instructions For Use (IFUs) for the TVT-O and the TVT-Secur; and the safety and efficacy of the TVT-Secur. Dr. Schwartz does not have the necessary education, training, and experience to testify regarding

¹ *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993).

these matters. Moreover, the methodology Dr. Schwartz employed in rendering his opinions on these subjects is unreliable.

For the reasons set forth here and in Plaintiffs' Memorandum of Law in Support of the Motion, Plaintiffs respectfully request that the Court enter an order limiting the expert testimony proffered by Brian N. Schwartz, M.D.

This 21st Day of April, 2016

By: /s/ P. Leigh O'Dell

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ P. Leigh O'Dell
Attorney for Plaintiffs